

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

Gerry Bey,	:	
	:	
Petitioner(s),	:	
	:	Case Number: 1:10cv115
vs.	:	
	:	Chief District Judge Susan J. Dlott
Melba D. Marsh,	:	
	:	
Respondent(s).	:	

ORDER

The Court has reviewed the Report and Recommendation of United States Magistrate Judge Timothy S. Black filed on April 1, 2010 (Doc. 5), to whom this case was referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) expired April 21, 2010, hereby ADOPTS said Report and Recommendation.

Accordingly, this matter is **DISMISSED** with prejudice for lack of prosecution and for failure to obey an order of this Court.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this Court's Order will not be taken in good faith, therefore **DENYING** petitioner leave to appeal *in forma pauperis*. Petitioner, a non-prisoner, remains free to apply to proceed *in forma pauperis* in the Court of Appeals. *See Callihan v. Schneider*, 178 F.3d 800, 803 (6<sup>th</sup> Cir. 1999), overruling in

part *Floyd v. United States Postal Serv.*, 105 F.3d 274, 277 (6<sup>th</sup> Cir. 1997).

IT IS SO ORDERED.

s/Susan J. Dlott  
Chief Judge Susan J. Dlott  
United States District Court